

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:17-cv-236-MOC
(3:10-cr-260-MOC-DSC-1)**

GREGORY D. ANDERSON,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
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THIS MATTER is before the Court on Respondent’s Motion to Stay Pending Appeal, (Doc. No. 11), in which the Government seeks to hold the instant proceedings in abeyance pending the Fourth Circuit Court of Appeals’ consideration of Petitioner’s interlocutory appeal, case number 18-6194.

Petitioner filed a § 2255 Motion to Vacate in May, 2017, (Doc. No. 1), raising 23 claims and more than 360 pages of attachments, (Doc. No. 1). More than two months later, he filed a Motion for Leave to Supplement, (Doc. No. 3), attaching 25 pages of materials. Next he filed a Motion for Relief, (Doc. No. 4), which purported to raise a Rule 60(d) fraud claim, which was in the nature of supplemental arguments and materials. The Court ordered Petitioner to file a single superseding Amended Motion to Vacate within 30 days or it would proceed on his original § 2255 Motion to Vacate. (Doc. No. 5).


Petitioner filed a Notice of Appeal, (Doc. No. 6), as well as an Amended Motion to Vacate, (Doc. No. 8), which the Government has been ordered to answer. (Doc. No. 10).

Respondent has filed a Motion to Stay the instant proceedings pending the outcome of Petitioner's interlocutory appeal. (Doc. No. 11). Petitioner filed a Response in which he opposes the stay. (Doc. No. 12).

The Court finds that staying the instant proceedings pending the Fourth Circuit's resolution of the pending interlocutory appeal is appropriate under the circumstances present in this case. See generally Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 59 (1982) ("The filing of a notice of appeal" ordinarily "divests the district court of its control over those aspects of the case involved in the appeal.").

IT IS HEREBY ORDERED that the Respondent's Motion to Stay Consideration of Motion Under 28 U.S.C. § 2255, (Doc. No. 11), is **GRANTED**. The Government shall have 30 days following the Fourth Circuit's issuance of its mandate in case number 18-6194, to file its Response.

Signed: May 24, 2018


Max O. Cogburn Jr.
United States District Judge